IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5031 OF 2005

Grampanchayat, Oros-Budruk & Anr. .. Petitioners
V/s
The State of Maharashtra & Ors. .. Respondents

Mr.S.G.Karandikar for the Petitioners.
Mr.C.R.Sonawane, AGP for Respondent Nos.1 to 5.
Mr.G.S.Hegade for Respondent No.6.

CORAM : B.H.MARLAPALLE & NARESH H.PATIL,JJ.
DATE : 25th September, 2006.

P.C.:

1. We have heard Mr.Karandikar, the learned Counsel for the Petitioners and Mr.Sonawane, the learned AGP. We have perused the affidavit in reply filed by the Tahasildar, Kudal, District Sindhudurg, the affidavit in reply filed by the Deputy Director of Town Planning, Konkan Division as well as the affidavit in reply filed by the Collector, Sindhudurg. The Collector herself is present before the Court. So far as the grievance of the petitinoer No.2 is concerned, the affidavit filed by the Collector is clear and the said petitioner has his own independent remedy and Mr.Karandikar stated that he has already filed the suit which has been decreed.

2. The grievance of Petitioner No.1 is in respect of an area admeasuring 115.37 Hectres which is situated towards the eastern side of the national highway and village panchayat claims that it has been stopped from giving permission to new construction within this area. The Deputy Director of Town Planning, Konkan Division in

his affidavit in reply has stated that the area admeasuring 115.37 Hectres and marked for agriculture with customary residence zone as per the plan submitted by CIDCO and sanctioned by the State Government, is not under acquisition and the land owners may develop their lands as per the sanctioned Development Control Regulations for this area after getting due permission from the Sindhudurg Nagari New Town Development Authority (SNTDA). The Collector in her reply as well has reiterated the same contentions and has further stated that for future developments, the land may be required by the State Authorities.

3. Section 115(1) of the Maharashtra Regional Town Planning Act, 1966 permits the special planning authority like SNTDA to mark the land which is required for future purposes and submit to the State Government for approval, but there should not be uncertainty in such future proposals. The development on this land for the time being is permissible for the following purposes by retaining its use for agriculture with customary residence zone;

a) Residential
b) Education
c) Health
d) Social Cultural facilities
e) Public Utilities
f) Lower Order Commercial

4. The Collector has clarified that if the village panchayat applies for permission, the same will be considered and there will not be any ban as such, in entertaining such proposals.

5. We also make it clear that in case the Special Planning Authority of the State i.e.SNTDA proposes to acquire this land or part of it, such a proposal may be submitted to the Government expeditiously, so that the village panchayat is aware that the land is marked for future purposes. In the meanwhile the applications for construction permission be dealt with as noted above, either by the Panchayat or SNTDA as the case may be.

6. Petition is disposed off in terms of the above directions.

(NARESH H.PATIL,J.) **(B.H.MARLAPALLE, J.)**